



New York  
White Plains Plaza  
One North Broadway  
White Plains, NY 10601-2310  
914-997-0500 Telephone  
914-997-0035 Fax  
[www.lowey.com](http://www.lowey.com)

Pennsylvania  
Four Tower Bridge  
200 Barr Harbor Drive, Suite 400  
West Conshohocken, PA 19428-2977  
610-941-2760 Telephone  
610-862-9777 Fax

March 24, 2015

**Via ECF**

The Honorable George B. Daniels  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

**Re: *Laydon v. Mizuho Bank, Ltd., et al.*, No. 12-cv-3419 (GBD) (HBP)**

Dear Judge Daniels,

We respond to Defendants' March 17, 2015 letter submitting Judge Forrest's *In re Aluminum Warehousing Antitrust Litigation* ("*Aluminum*") decision. ECF No. 439.

Defendants argue that *Aluminum* supports their view that Plaintiff's conspiracy averments are insufficient to confer personal jurisdiction over the foreign defendants. The *Aluminum* plaintiffs cited no hard evidence of conspiracy despite having discovery before filing their pleading. *See Aluminum*, 2015 WL 892255, at \*17. The lack of direct evidence led Judge Forrest to conclude that the conspiracy facts were conclusory.

Judge Forrest acknowledged that Second Circuit authority requires jurisdictional discovery where a complaint alleges specific facts that a defendant worked with others to cause adverse economic effects in the United States. *Aluminum*, 2015 WL 892255, at \*17-18 (citing *In re Magnetic Audiotape Antitrust Litig.*, 334 F.3d 204 (2d Cir. 2003) ("*Magnetic Audiotape*").

Because this Court concluded that the Complaint "giv[es] rise to an inference that Defendants knew of the other Defendants' unlawful and manipulative conduct and assisted each other in the furtherance of the violation" (*Laydon v. Mizuho Bank, Ltd., et al.*, No. 12-cv-3419, 2014 U.S. Dist. LEXIS 46368, at \*23-24 (S.D.N.Y. Mar. 28, 2014)), *Aluminum* is distinguishable on its facts. If *Aluminum* may be read to categorically discredit the contacts of a conspiracy or conspirators when analyzing jurisdiction, it should not be followed because it conflicts with both *Magnetic Audiotape* and *Ford v. United States*, 273 U.S. 593, 601, 619-20 (1927) (cited in *United States of America vs. Tom Alexander William Hayes and Roger Darin*, 12 MJ 3229, slip op. at 30 (S.D.N.Y. Mar. 20, 2015)).

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Peter D. St. Phillip", is written over a horizontal line.

Peter D. St. Phillip

cc: Counsel of Record (via ECF)